

RM 2 – Fraud, Corruption & Misconduct Prevention

1 Objectives

The objectives are:

- Install a corporate culture which encourages awareness, vigilance and confidence in identifying instances of fraud, corruption and misconduct within a wider culture of encouraging continuous improvement, corporate and individual responsibility and innovation;
- Develop and maintain corporate systems which discourage and eliminate the risk of fraud, corruption and misconduct; and
- Promotion of an open and transparent culture of communication.

2 Scope

This policy applies to all employees of the Shire of Bridgetown-Greenbushes.

3 Definitions

3.1 Act

The Local Government Act 1995.

3.2 Fraud

Dishonest activity causing actual or potential gain or loss to any person or organisation including theft of moneys or other property by persons internal and/or external to the organisation and/or where deception is used at the time, immediately before or immediately following the activity (Australian Standard AS 8001 – 2021 Fraud and Corruption Control).

This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity by where deception is not used is also considered 'fraud' for the purposes of this Standard.

3.3 Serious misconduct

Serious misconduct is misconduct that involves corrupt intent and/or criminal conduct and occurs when a public officer:

- acts corruptly or corruptly fails to act in the course of their duties; or
- corruptly takes advantage of their position for the benefit or detriment of any person; or
- commits an offence which carries a penalty of two or more years imprisonment.

Where the Principal Officer (CEO) has a reasonable suspicion that an instance of serious misconduct has occurred, the Principal Officer must report to the Corruption, Crime Commission (CCC) as soon as practicable.

3.4 Minor misconduct

Minor misconduct is misconduct that is significant enough that it could possibly lead to termination of a public officer's employment if proved. Minor misconduct occurs when a public officer engages in conduct that:

- adversely affects or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
- constitutes or involves the performance of functions in a manner that is not honest or impartial; or
- involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; and
- constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.

Where the CEO has a reasonable suspicion that an instance of minor misconduct has occurred, they must report to the Public Sector Commission as soon as practicable.

3.5 Public interest information

Means information that tends to show, in relation to its public function a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in:

- (a) improper conduct; or
- (b) an act or omission that constitutes an offence under a written law; or
- (c) a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or
- (d) an act done or omission that involves a substantial and specific risk of –
 - (i) injury to public health; or
 - (ii) prejudice to public safety; or
 - (iii) harm to the environment;

or

- (e) a matter of administration that can be investigated.

3.6 Public officer

Includes a member, officer, or employee of an authority, board, corporation, commission, local government, council, committee or other similar body established for a public purpose under an Act. (*Corruption, Crime and Misconduct Act 2003*)

3.7 Public authority

Includes an authority, board, corporation, commission, council, committee, local government, regional local government or similar body established under a written law. (*Corruption, Crime and Misconduct Act 2003*).

4 Policy

Council is committed to a strong culture and sound governance that will safeguard public funds and property.

Council considers fraud, corruption and misconduct to be serious matters and such behaviours are considered unacceptable.

All employees are accountable for, and have a role to play, in fraud, corruption and misconduct prevention and control and are encouraged to disclose actual or suspected fraudulent or corrupt activity.

When identified, any suspected fraudulent or corrupt activity will be promptly and thoroughly investigated, and where appropriate legal remedies available under the law will be pursued.

Where appropriate, Council will protect the anonymity of those reporting the activity.

Detrimental actions are not permitted against anyone who reports suspected or known incidents, consistent with Council's Public Interest Disclosure Administrative Policy. Council may take disciplinary action against those who maliciously and knowingly create a false allegation.

4.1 Responsibilities

Whilst the management of fraud, corruption and misconduct is considered the collective responsibility of all persons engaged with or associated with the Shire, certain roles within the Shire will have specific roles in the operation of this Policy.

Role	Responsibility
Council	<ul style="list-style-type: none"> Adopt Fraud, Corruption and Misconduct Policy and provide leadership.
Audit Committee	<ul style="list-style-type: none"> Review risk management framework and associated processes for the effective identification and management of fraud risks; overseeing development and implementation of the Fraud, Corruption and Misconduct policy.
Chief Executive Officer (CEO)	<ul style="list-style-type: none"> The CEO has overall accountability for the effective and economical use of Shire resources and for determining appropriate controls in managing fraud and corruption risks; The CEO, has certain reporting obligations to the Corruption and Crime Commission and/or the Public Sector Commission under the <i>Corruption, Crime and Misconduct Act 2003</i>.

	<ul style="list-style-type: none"> • Coordinate and/or conduct investigations into allegations of fraud, corruption and misconduct when required.
Executive Leadership Team and Managers	<ul style="list-style-type: none"> • Provide leadership, guidance and support to employees in preventing fraud, corruption and misconduct and modelling ethical behaviour; • Monitor the implementation of operational controls; • Identify significant fraud, corruption and misconduct risk areas.
Manager Governance & Risk	<ul style="list-style-type: none"> • Coordinate, monitor and review the fraud, corruption and misconduct risk assessment process; • Assist with implement of fraud, corruption and misconduct strategies with departments, including internal and external audit recommendations; • Undertake scheduled audits, which include examining established controls to determine if these are robust enough to reduce the risks of fraud, corruption and misconduct, including the identification of work practices that may lead to fraudulent and corrupt activities and misconduct. • Delivering and/or coordinating fraud and corruption training.

4.2 Policies and Processes

The Shire has a range of policies and processes in place that govern and support its day-to-day operations and decision making.

Fraud, corruption and misconduct prevention and detection controls are embedded in various state legislation, Shire policies and procedures including (but not limited to):

- Local Government Act and associated Regulations
- Accrual of Annual Leave Policy
- Codes of Conduct
- Fraud, Corruption & Misconduct Policy
- Information Communication Technology Use Policy
- Managing Issues & Grievances Procedures
- Purchasing Policy
- Risk Management Policy and Framework
- Use of Corporate Credit Card Policy

Specific council and administrative policies dealing with fraud, corruption and misconduct are to be revised regularly to include specific provisions to address fraud/misconduct/corruption.

4.3 Fraud, Corruption and Misconduct Risk Assessments

Risk assessments should be undertaken for all potential fraud, corruption and misconduct risks.

The following areas have been identified as those with the greater potential for fraud, corruption or misconduct as such more detailed risk assessments will be undertaken in these areas:

1. Procurement
2. Contract Management
3. Regulatory Services
4. Employment
5. Misuse of resources

Appropriate amendments to policy and procedure to mitigate identified fraud, corruption and misconduct risks will be developed.

4.4 Communication and Awareness

It is important that fraud, corruption and misconduct is identified and reported at an early stage and that employees understand the process for the reporting of it.

Awareness of the Shire's fraud, corruption and misconduct prevention policy and controls will be implemented through the following channels:

- A copy of the Shire's Code of Conduct will be provided to all new employees after which they are to sign acknowledgement of having understood the contents.
- Annual reviews and training for employees.
- Any changes to the Code of Conduct will be communicated to all employees.

4.5 Detection of Fraud

The Shire will implement several processes to detect fraud, corruption and misconduct, which may include, but is not necessarily limited to:

- Observation and awareness by all employees - Through the Shire's Code of Conduct and training, staff have the knowledge and understanding of how to respond if fraud, corrupt or misconduct activity is detected or suspected.
- Risk Management System - The Shire has a Risk Management system in place for the identification, analysis, evaluation and treatment of risk, including fraud, corruption, misconduct and a process to monitor and review on a regular basis.
- Internal Audit – provide assurance to the Chief Executive Officer/Council that the financial and operational controls designed to manage the Shire's risks are effective, by undertaking Internal Audit activities to identify weaknesses in the fraud, corruption and misconduct control environment.

- External Auditors - Australian auditing standards provide for auditing procedures so that the audit will be more likely to detect a material misstatement in financial statements due to fraud or corruption (or error).

Common red flags for possible fraud, misconduct or corruption include:

- over-familiar relationships between employees, proponents, suppliers and contractors;
- disregard of internal controls;
- Employees demonstrating a reluctance to take leave, particularly where they have cash control or debt collection responsibilities;
- Employees remaining later at work than other employees, or accessing work premises unnecessarily after other employees have left;
- unreconciled accounting records, including corporate card transactions and/or poor follow up of outstanding accounts; and
- lack of supporting documentation for purchases.

4.6 Reporting Fraud, Corruption and Misconduct

As outlined in the Shire's Code of Conduct for Employees, employees may report suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour to their supervisor, Manager, or the CEO in accordance with the Shire of Bridgetown-Greenbushes' Fraud, Corruption and Misconduct Prevention Policy

In accordance with the *Corruption, Crime and Misconduct Act 2003*, if the CEO suspects on reasonable grounds that the alleged behaviour may constitute misconduct as defined in that Act, the CEO will notify:

1. the Corruption and Crime Commission, in the case of serious misconduct; or
2. the Public Sector Commissioner, in the case of minor misconduct.

Staff may also report directly to the Corruption and Crime Commission or the Public Sector Commission, anonymously if desired.

4.7 Investigating Fraud, Corruption and Misconduct

Investigations of allegations of fraud, corruption or misconduct will be investigated in line with the requirements of the Code of Conduct and the Public Interest Disclosure provisions outlined on the Shire's website. The guidelines provide for:

1. appropriate measures for the comprehensive investigation of such matters based on the principles of independence, objectivity and fair due process (rules of natural justice).
2. systems for internal reporting of all detected incidents.
3. process for reporting the matters of suspected fraud, corruption and misconduct to appropriate external enforcement agencies.

The Shire will review these processes from time to time or after investigations have been made and potential improvements have been recognised as part of the investigation process.

4.8 Response to Investigations

All reports of suspected fraud, corruption or misconduct will be investigated according to Shire policies and processes or referred to an external investigative agency as appropriate.

Appropriate action will be taken which may include disciplinary action or referral to an external agency such as the Corruption and Crime Commission or the WA Police.

If there is a reasonable suspicion that an incident constitutes minor misconduct or serious misconduct, the CEO, as Principal Officer, is required in accordance with the Corruption, Crime and Misconduct Act to report the matter to the Public Sector Commission (PSC) or Corruption and Crime Commission (CCC) respectively.

The PSC or CCC respectively may choose to investigate the matter itself, refer it back to the Shire, or work with the Shire to investigate the matter.

Any allegation involving criminal offences against the Shire, by employees or external parties, needs to be referred to the Police. In the event the Police do not lay criminal charges, but the information requires further enquiry because the allegation raises a reasonable suspicion of employee misconduct which, if proven, would be likely to result in formal disciplinary action, an investigation will be commenced.

The CEO is to ensure that all incidents of fraud, corruption and misconduct are investigated, documented and registered on the organisations document management system in a confidential manner.

The Audit Committee will be informed of all instances of alleged fraud and the status of investigations to consider and ensure controls are appropriately designed and implemented.

4.9 Disciplinary Procedures

The Shire reserves its rights to recover any losses it has suffered due to fraud, corruption and misconduct especially where the likely benefits of recovery exceed the funds required to investigate the action.

4.10 Monitor, Review and Evaluation

The effective monitoring, review and evaluation of fraud, corruption and misconduct is a mechanism by which the Shire can demonstrate accountability and provide assurance that legislative and governance requirements are being met.

Records will be kept of all instances of suspected fraud, corruption or misconduct.

Following an incident or investigation where fraud, corruption or misconduct was substantiated, the Manager Governance & Risk will conduct a review of the incident to determine if a change to policy, procedure or internal controls is necessary.

5 Applicable Legislation and Documents

Act	<p>s.2.7(2)(b) <i>Local Government Act 1995</i> – The council is to determine the local government’s policies</p> <p><i>Corruption, Crime and Misconduct Act 2003</i></p> <p><i>Criminal Code Act Compilation Act 1913</i></p> <p><i>Public Interest Disclosure Act 2003</i></p> <p><i>Public Sector Management Act 1994</i></p>
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Regulation	r.17, <i>Local Government (Audit) Regulations 1996</i> – CEO to review certain systems and procedures r.5, <i>Local Government (Financial Management) Regulations 1996</i> – CEO's duties as to financial management
Local Law	
Shire Policies	FM 4 – Purchasing Policy FM 7 – Use of Corporate Credit Cards IT 1 – Information Communication Technology Use P 15 – Accrual of Annual Leave RM 1 - Risk Management Policy Public Information Disclosure Administration Policy
Related Documents	Australian Standard AS 8001-2021 – Fraud and Corruption Control Australian Standard AS ISO 31000:2018 Risk management – Guidelines Local Government Framework – Fraud & Corruption Control, July 2015 Codes of Conduct Risk Management Framework Auditor General – Fraud Risk Management – Better practice Guide June 2022 Notification of misconduct in Western Australia – a joint information resource prepared by the Public Sector Commission and the Corruption and Crime Commission on misconduct as defined by the Corruption, <i>Crime and Misconduct Act 2003</i> – 1 July 2015
Related Procedure	FIN 03 – Purchasing Policy Non Compliance HR 008 – Disciplinary Procedures Issue Resolution Procedure

6 Administration

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